IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.Rev.Pet.No. 1903 of 2007()

CC.92/1999 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR

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REVN. PETITIONERS:PETITIONERS/ACCUSED 1 TO 8

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1. M/S.SHIVANI PHARMATECH PVT.LTD.1082,
   IST FLOOE,12 MAIN 2ND STAGE,WEST OF CHORD ROAD,
   BANGLORE-86,HAVING ITS REGD.OFFICE OF BHATKAL,
   UTTARA KANNADA(PRESENT ADDRESS AND SALES PREMISES
   AT 59/13,19TH MAIN ROAD,II BLOCK,RAJAJI NAGAR,
   BANGLORE-10)REP. BY ITS DIRECTOR SANJAY GANAPATHI REVANKAR
   NO.21. V/T/ROAD, BHATKAL, UTTARA KANNADA, KARNATAKA.

2. SANJAY GANAPATHI REVANKAR, 21,V.T.ROAD,
   BHATKAL, UTTARA KANNADA, KARNATAKA (DIRECTOR OF A1

3. RAVEENDRA GAJANAN KOLLE, S/O.GAJANAN
   GANAPATHI KOLLE,21 V.T.ROAD,BHATKAL,
   UTTARA KANNADA, KARNATAKA (DIRECTOR OF A1).

4. RAJANI.R.KOLLE,21 V.T.ROAD,BHATKAL,
   TTARA KANNADA, KARNATAKA (DIRECTOR OF A1).

5. M/S.SHIVANI LABORATORIES, 571 B,
   SHIRALI-581 354, REPRESENTED BY ITS WORKING
   PARTNER,A6.

6. NARAYANANA GAJANAN KOLLE, 54 YEARS,
   S/O.GAJANAN GANAPATHI KOLLE,
   21 V.T.ROAD,BHATKAL,
   UTTARA KANNADA, KARNATAKA (DIRECTOR OF A1).

7. SANTHABHAI GAJANAN KOLLE, 76 YEARS,
   21 V.T.ROAD,BHATKAL, UTTARA KANNADA,
   KARNATAKA STATE.

8. RAGHUVEER GAJANAN KOLLE, 36 YEARS,
   S/O.GAJANAN GANAPATHI KOLLE,21 V.T. ROAD,
   BHATKAL,UTTARA KANNADA,KARNATAKA.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS: RESPONDENTS & STATE

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1. DRUGS INSPECTOR, OFFICE OF THE ASSISTANT DRUGS CONTROLLER,THRISSUR.

2. STATE OF KERALA REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERANKULAM.

BY PUBLIC PROSECUTOR SRI.RAVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.1903 of 2007

Dated this the 4th day of June, 2007

O R D E R

The revision petitioners are the accused in C.C.92/99 in the court of Chief Judicial Magistrate, Thrissur with respect to the offence under Section 18(a)(i) read with Section 27(d) and 27(c) of the Drugs and Cosmetics Act.

2. Petitioner had approached this court earlier vide Crl.M.C.No.4839/01 and this court directed the court below that if the petitioners raised a plea for discharge, the court shall consider it as a preliminary point and pass appropriate orders. Then the petitioners have prayed for discharge vide Crl.M.P.No.5942/2006 before the court below. The court below dismissed the same observing that the question of discharge can be considered only after completing the evidence vide Section 244(1) of Criminal Procedure Code and that question of discharge is raised at a premature stage.

3. I find that the order of the court below is clearly in violation of the order this court. Section 245(2) of Crl.P.C.

enables the Magistrate to consider the question of discharge at any previous stage. Hence, the order of the court below is set aside. The matter is remitted back to the court below. The court below is directed to consider the matter afresh and dispose of the same on merits. The revision petitioners shall appear before the court of Chief Judicial Magistrate on 22.6.2007.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl